

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Mark Trask v Robert Carmack**

Docket No. **290608**

L.C. No. **06-631575-CK**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The claim of appeal is DISMISSED for lack of jurisdiction because neither the October 21, 2008 order imposing sanctions on appellant's counsel nor the February 4, 2009 order denying reconsideration of the former order is a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). The October 21, 2008 order is not a final order under MCR 7.202(6)(a)(iv) because it is based on the circuit court's inherent power to punish contempt, not on any particular law or court rule within the meaning of this subrule. In this regard, the general language of MCR 7.202(6)(a)(iv) referring to "other law or court rule" must be considered under the principle of ejusdem generis to be limited to specific statutory or court rule provisions in light of the preceding enumeration in the subrule of specific court rule provisions. *Neal v Wilkes*, 470 Mich 661, 669; 685 NW2d 648 (2004) (citation omitted). To interpret the general reference to "other law or court rule" in MCR 7.202(6)(a)(iv) as defining any postjudgment order awarding or denying attorney fees and costs to be a final order would impermissibly render the reference to specific court rule provisions in MCR 7.202(6)(a)(iv) mere surplusage. *Allison v AEW Capital Mgmt, LLP*, 481 Mich 419, 432; 751 NW2d 8 (2008). At this time appellant may seek to appeal either the October 21, 2008 order or the February 4, 2009 order only by filing a delayed application for leave to appeal under MCR 7.205(F).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 21 2009

Date

Sandra Schultz Mengel

Chief Clerk